

Exhibit J

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY Department of Human Services
DIVISION Division of Medical Services
DIVISION DIRECTOR Dawn Stehle
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NAME OF PRESENTER AT COMMITTEE MEETING Craig Cloud
PRESENTER E-MAIL craig.cloud@dhs.arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

State Plan Amendment #2015-004; State Plan Amendment
#2015-007; Targeted Case Management 2-15;
IndependentChoices 2-15; Personal Care 3-15; and ARChoices-
New-15

1. What is the short title of this rule? New-15
2. What is the subject of the proposed rule? Renewal of ElderChoices Waiver now referred to as
ARChoices
3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation. _____
4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes No
If yes, please provide a brief summary explaining the regulation. _____

Does this repeal an existing rule? Yes No
If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

Is this an amendment to an existing rule? Yes No
If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Arkansas Statute 20-76-201

7. What is the purpose of this proposed rule? Why is it necessary? The proposed changes are needed to renew the ElderChoices 1915(c) HCBS waiver. The renewal combines the ElderChoices and Alternatives for Adults with Physical Disabilities (AAPD) waivers into one waiver called the ARChoices in Homecare Waiver covering participants 21 and older with a physical disability and individuals aged 65 and older. This proposed change also increases the State Plan Personal Care rate from \$16.76/hr to \$18/hr.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).
<https://www.medicaid.state.ar.us/general/comment/comment.aspx>

9. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
September 1, 2015

11. What is the proposed effective date of this proposed rule? (Must provide a date.)
January 1, 2016

12. Do you expect this rule to be controversial? Yes No

If yes, please explain. _____

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules?
Please provide their position (for or against) if known.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services
DIVISION Division of Medical Services
PERSON COMPLETING THIS STATEMENT Craig Cloud
TELEPHONE NO. 320-6439 **FAX NO.** 501-404-4619 **EMAIL:** craig.cloud@dhs.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE State Plan Amendment #2015-004; State Plan Amendment #2015-007; Targeted Case Management 2-15; Independent Choices 2-15; Personal Care 3-15; and AR Choices-New-15

- 1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
- 2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No
- 3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;

- (b) The reason for adoption of the more costly rule;

- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____

Total _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year SFY 2016 (Jan – June)

Next Fiscal Year SFY 2017

General Revenue	<u>\$2,500,000</u>
Federal Funds	<u>\$6,000,000</u>
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	<u>\$8,500,000</u>

General Revenue	<u>\$ 7,530,000</u>
Federal Funds	<u>\$17,570,000</u>
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	<u>\$25,100,000</u>

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ 2,500,000

Next Fiscal Year

\$ 7,530,000

\$6.2 million of the increase is based on a rate increase of State Plan Personal Care from \$16.76/hr to \$18/hr.
\$1.3 million of the increase is due to 554 persons on the waiver waiting list and expected growth.

7. With respect to the agency’s answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

(1) a statement of the rule’s basis and purpose;

The Personal Care rate has not been increased in more than five years. Providers are challenged with meeting their financial obligations under the current rate. The Arkansas Department of Health, a large provider of Personal Care in Arkansas, determined in 2014

that it costs \$19 to provide an hour of Personal Care. Increasing the rate to \$18 will help support providers in providing this much needed service.

Merging the two waivers into one waiver will improve administrative efficiencies and provide a consistent set of services across the individual's span of care.

- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

These changes are not required by statute. The rate increase is being made so providers can continue providing this service. The waivers are being merged to improve efficiencies in state administration of the services, which will benefit the client.

- (3) a description of the factual evidence that:
(a) justifies the agency's need for the proposed rule; and

Personal Care has not received a rate increase in more than five years. The rate has not kept up with inflation. ADH determined in 2014 that it costs \$19 to provide an hour of personal care. The amount settled upon in this proposal, \$18/hr., was a negotiated amount made between providers and DHS in 2014.

- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

Providers will be able to continue providing quality care.

- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

The only alternative would be to provide less of an increase or no increase. This would not be practical based on the actual cost for providers in providing the care.

- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

There were no alternatives provided as part of public comment.

- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and

Not applicable.

- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:

DHS will review the rate periodically to determine if the rate meets current needs.

- (a) the rule is achieving the statutory objectives;
- (b) the benefits of the rule continue to justify its costs; and
- (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

SUMMARY

ARChoices in Homecare

The Department of Human Services Division of Medical Services (DMS) is combining the ElderChoices (EC) (0195) and the Alternatives for Adults with Physical Disabilities (AAPD) (0312) waivers into one waiver called ARChoices in Homecare. The combining of the two waivers will be completed through a renewal of the ElderChoices waiver.

Summary of Changes

The following is the summary of changes:

- EC Homemaker, EC Adult Companion Services and AAPD Attendant Care will be provided as Attendant Care. Individuals may self-direct Attendant Care under the 1915(j) authority through Arkansas's IndependentChoices program.
- Case Management for all ARChoices participants will be provided through State Plan Targeted Case Management (TCM). TCM will be amended to expand the targeted population from age 60 and above to age 21 and above on ARChoices. The Case Management portion of AAPD Counseling Support Management (CSM) will be provided as TCM. All individuals in the combined waiver will have access to this service. The Employer Counseling (Support Brokerage) portion of AAPD CSM will be handled by the contracted entity in IndependentChoices.
- The EC Chore service will be discontinued. The EC population will now have access to Environmental Accessibility Adaptations/Adaptive Equipment.
- The Environmental Accessibility Adaptations/Adaptive Equipment definition now excludes permanent fixtures to leased or rented homes.

Rates increase for personal care, ARChoices Attendant Care, In-home Respite, IndependentChoices, Adult Day Services and Adult Day Health Services.